

# Order

Michigan Supreme Court  
Lansing, Michigan

July 29, 2008

Clifford W. Taylor,  
Chief Justice

135657

Michael F. Cavanagh  
Elizabeth A. Weaver  
Marilyn Kelly  
Maura D. Corrigan  
Robert P. Young, Jr.  
Stephen J. Markman,  
Justices

PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff-Appellee,

v

SC: 135657  
COA: 280312  
Genesee CC: 81-030384-FC

CHARLES O. MCINTOSH,  
Defendant-Appellant.

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On order of the Court, the application for leave to appeal the December 12, 2007 order of the Court of Appeals is considered and, pursuant to MCR 7.302(G)(1), in lieu of granting leave to appeal, we VACATE the Genesee Circuit Court's orders of August 31, 2006 and June 15, 2007, and we REMAND this case to the Genesee Circuit Court for consideration of the merits of the defendant's motion for relief from judgment filed on December 27, 2005. Under the circumstances of this case, the motion filed by the defendant on September 2, 2005 did not constitute a motion for relief from judgment under subchapter 6.500. Accordingly, the Genesee Circuit Court erred in treating the defendant's December 27, 2005 motion for relief from judgment as a successive motion under MCR 6.502(G).

We do not retain jurisdiction.



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I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

July 29, 2008

*Corbin R. Davis*

Clerk